

105TH CONGRESS
2D SESSION

H. R. 3381

To direct the Secretary of Agriculture and the Secretary of the Interior
to exchange land and other assets with Big Sky Lumber Co.

IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 1998

Mr. HILL introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Secretary of Agriculture and the Secretary
of the Interior to exchange land and other assets with
Big Sky Lumber Co.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Gallatin Land Consoli-
5 dation Act of 1998”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) the land north of Yellowstone National Park
2 possesses outstanding natural characteristics and
3 wildlife habitats that make the land a valuable addi-
4 tion to the National Forest System;

5 (2) it is in the interest of the United States to
6 establish a logical and effective ownership pattern
7 for the Gallatin National Forest, reducing long-term
8 costs for taxpayers and increasing and improving
9 public access to the forest; and

10 (3) it is in the interest of the United States for
11 the Secretary of Agriculture to enter into an Option
12 Agreement for the acquisition of land owned by Big
13 Sky Lumber Co. to accomplish the purposes of this
14 Act.

15 **SEC. 3. DEFINITIONS.**

16 In this Act:

17 (1) BLM LAND.—The term “BLM land”
18 means approximately 3,000 acres of Bureau of Land
19 Management land (including all appurtenances to
20 the land) that is proposed to be acquired by BSL,
21 as depicted in Exhibit B to the Option Agreement.

22 (2) BSL.—The term “BSL” means Big Sky
23 Lumber Co., an Oregon joint venture, and its suc-
24 cessors and assigns, and any other entities having a
25 property interest in the BSL land.

1 (3) BSL LAND.—The term “BSL land” means
2 approximately 55,000 acres of land (including all ap-
3 purtenances to the land) owned by BSL that is pro-
4 posed to be acquired by the Secretary of Agriculture,
5 as depicted in Exhibit A to the Option Agreement.

6 (4) FOREST SYSTEM LAND.—The term “Forest
7 System land” means approximately 28,000 acres of
8 land (including all appurtenances to the land) owned
9 by the United States in the Gallatin National For-
10 est, Flathead National Forest, Deer Lodge National
11 Forest, Lolo National Forest, and Lewis and Clark
12 National Forest that is proposed to be acquired by
13 BSL, as depicted in Exhibit B to the Option Agree-
14 ment.

15 (5) OPTION AGREEMENT.—The term “Option
16 Agreement” means the document signed by BSL,
17 dated _____ and entitled “Option Agree-
18 ment for the Acquisition of Big Sky Lumber Co.
19 Lands Pursuant to the Gallatin Range Consolidation
20 and Protection Act of 1993”, and the exhibits (in-
21 cluding an exchange agreement) and maps attached
22 to the agreement.

23 **SEC. 4. GALLATIN LAND CONSOLIDATION COMPLETION.**

24 (a) IN GENERAL.—Notwithstanding any other provi-
25 sion of law, if BSL offers title to the BSL land, including

1 mineral interests, that is acceptable to the United States
2 and meets the requirements of subsection (e)—

3 (1) the Secretary of Agriculture shall accept a
4 warranty deed to the BSL land and a quit claim
5 deed to the mineral interests in the BSL land;

6 (2) the Secretary of Agriculture shall convey to
7 BSL, subject to valid existing rights and to such
8 other terms, conditions, reservations, and exceptions
9 as may be agreed on by the Secretary of Agriculture
10 and BSL fee title to the Forest System land;

11 (3) the Secretary shall grant to BSL timber
12 harvest rights to approximately 20,000,000 board
13 feet of timber in accordance with subsection (c) and
14 as described in Exhibit C to the Option Agreement;

15 (4)(A) subject to the availability of funds, the
16 Secretary of Agriculture shall purchase the portion
17 of the BSL land in the Taylor Fork area depicted
18 on Exhibit D to the Option Agreement at a purchase
19 price of not more than \$6,500,000; and

20 (B) to extent that funds are not available, the
21 Secretary of Agriculture shall acquire the remaining
22 Taylor Fork sections through an exchange of assets;
23 and

24 (5) the Secretary of the Interior shall convey to
25 BSL, by patent or otherwise, subject to valid exist-

1 ing rights and to such other terms, conditions, res-
2 ervations, and exceptions as may be agreed to by the
3 Secretary of the Interior and BSL, fee title to the
4 BLM land.

5 (b) VALUATION.—The property and other assets ex-
6 changed by BSL and the United States under subsection
7 (a) shall be approximately equal in value, as determined
8 by the Secretary of Agriculture.

9 (c) TIMBER HARVEST RIGHTS.—

10 (1) IN GENERAL.—Not later than December 31
11 of the second full calendar year that begins after the
12 date of enactment of this Act, the Secretary shall
13 prepare, grant to BSL, and commence administra-
14 tion of the timber harvest rights identified in Ex-
15 hibit C to the Option Agreement.

16 (2) GRANTS.—

17 (A) IN GENERAL.—The Secretary shall
18 grant timber harvest rights to BSL not earlier
19 than the date that is 45 days after the date on
20 which the Secretary issues a decision notice to
21 grant the timber harvest rights, or, if such a
22 decision notice is appealed, after the date of
23 final resolution of the appeal.

1 (B) LIMITATION.—The Secretary may not
2 grant timber harvest rights that are the subject
3 of administrative appeal or litigation.

4 (3) ADMINISTRATION.—After timber harvest
5 rights are granted to BSL, the decision notice for
6 those rights and the administration of those rights
7 in accordance with the decision notice shall not be
8 subject to administrative appeal or judicial review.

9 (4) SCHEDULES.—The Secretary and BSL
10 shall mutually develop and agree on schedules for
11 the harvest of timber the harvest rights to which are
12 granted to BSL in the exchange.

13 (5) TIMBER SALE PROGRAM.—The timber har-
14 vest rights granted under this Act—

15 (A) shall constitute the timber sale pro-
16 gram for the Gallatin National Forest for the
17 period beginning on the date of enactment of
18 this Act and ending on December 31 of the sec-
19 ond full calendar year that begins after that
20 date; and

21 (B) shall be funded by the Secretary annu-
22 ally at levels that are commensurate with the
23 preparation and administration involved in the
24 program.

1 (6) SUBSTITUTION.—If circumstances, such as
2 natural catastrophe, administrative appeals or litigation,
3 tion, regulatory or legal limitations, or environ-
4 mental or financial circumstances, prevent the Sec-
5 retary from granting the timber harvest rights iden-
6 tified in Exhibit C to the Option Agreement, the
7 Secretary shall replace the value of the diminished
8 timber harvest rights by substituting equivalent tim-
9 ber harvest rights volume from the same market
10 area.

11 (7) OPEN MARKET.—All timber harvest rights
12 granted to BSL in the exchange under subsection
13 (a) shall be offered for sale by BSL through the
14 competitive bid process.

15 (8) SMALL BUSINESS.—All timber harvest
16 rights granted to BSL in the exchange shall be sub-
17 ject to compliance by BSL with Forest Service small
18 business program procedures in effect as of the date
19 of enactment of this Act, including contractual pro-
20 visions for payment schedules, harvest schedules,
21 and bonds and including the right of the highest bid-
22 der among qualified small businesses that submit
23 minimum bids to be awarded a timber contract.

24 (9) COMPLIANCE WITH OPTION AGREEMENT.—
25 The Secretary and BSL shall comply with the terms

1 and conditions of the Option Agreement, including
2 terms and conditions with respect to timber harvest
3 rights included in the exchange.

4 (d) RIGHTS-OF-WAY.—As part of the exchange under
5 subsection (a)—

6 (1) the Secretary of Agriculture, under the au-
7 thority of the Federal Land Policy and Management
8 Act of 1976 (43 U.S.C. 1701 et seq.), shall convey
9 to BSL such easements in or other rights-of-way
10 over Forest System land as may be agreed to by the
11 Secretary of Agriculture and BSL; and

12 (2) BSL shall convey to the United States such
13 easements in or other rights-of-way over land owned
14 by BSL as may be agreed to by the Secretary of Ag-
15 riculture and BSL.

16 (e) QUALITY OF TITLE.—

17 (1) DETERMINATION.—The Secretary of Agri-
18 culture shall review the title for the BSL land de-
19 scribed in subsection (a) and, within 45 days after
20 receipt of all applicable title documents from BSL,
21 determine whether—

22 (A) the applicable title standards for Fed-
23 eral land acquisition have been satisfied or the
24 quality of the title is otherwise acceptable to the
25 Secretary of Agriculture;

1 (B) all draft conveyances and closing docu-
2 ments have been received and approved;

3 (C) a current title commitment verifying
4 compliance with applicable title standards has
5 been issued to the Secretary; and

6 (D) the title includes both the surface and
7 subsurface estates without reservation or excep-
8 tion (except by the United States or the State
9 of Montana, by patent or as otherwise agreed
10 to by the Secretary and BSL), including—

11 (i) minerals, mineral rights, and min-
12 eral interests (including severed oil and gas
13 surface rights), subject to and excepting
14 other outstanding or reserved oil and gas
15 rights;

16 (ii) timber, timber rights, and timber
17 interests, except those reserved subject to
18 section 251.14 of title 36, Code of Federal
19 Regulations, by BSL and agreed to by the
20 Secretary;

21 (iii) water, water rights, ditch, and
22 ditch rights; and

23 (iv) any other interest in the property.

24 (2) CONVEYANCE OF TITLE.—

1 (A) IN GENERAL.—If the quality of title
2 does not meet Federal standards or is otherwise
3 determined to be unacceptable to the Secretary
4 of Agriculture, the Secretary shall advise BSL
5 regarding corrective actions necessary to make
6 an affirmative determination under paragraph
7 (1).

8 (B) TITLE TO SUBSURFACE ESTATE.—
9 Title to the subsurface estate shall be conveyed
10 by BSL to the Secretary of Agriculture in the
11 same form and content as that estate is re-
12 ceived by BSL from Burlington Resources Oil
13 & Gas Company Inc. and Glacier Park Com-
14 pany.

15 (f) TIMING OF IMPLEMENTATION.—

16 (1) LAND-FOR-LAND EXCHANGE.—The Sec-
17 retary of Agriculture shall accept the conveyance of
18 land described in subsection (a) not later than 45
19 days after the Secretary of Agriculture has made an
20 affirmative determination of quality of title.

21 (2) LAND-FOR-TIMBER EXCHANGE.—The Sec-
22 retary shall make the timber harvest rights de-
23 scribed in subsection (a)(3) available not later than
24 December 31 of the second full calendar year that
25 begins after the date of enactment of this Act.

1 (3) PURCHASE.—The Secretary of Agriculture
 2 shall complete the purchase of BSL land under sub-
 3 section (a)(4) not later than 30 days after the date
 4 on which appropriated funds are made available and
 5 an affirmative determination of quality of title is
 6 made with respect to the BSL land.

7 **SEC. 5. GENERAL PROVISIONS.**

8 (a) MINOR CORRECTIONS.—

9 (1) IN GENERAL.—The Option Agreement shall
 10 be subject to such minor corrections as may be
 11 agreed to by the Secretary of Agriculture and BSL.

12 (2) NOTIFICATION.—The Secretary shall notify
 13 the Committee on Energy and Natural Resources of
 14 the Senate, the Committee on Resources of the
 15 House of Representatives, and each member of the
 16 Montana congressional delegation of any changes
 17 made pursuant to this subsection.

18 (b) PUBLIC AVAILABILITY.—The Option Agree-
 19 ment—

20 (1) shall be on file and available for public in-
 21 spection in the office of the Supervisor of the Gal-
 22 latin National Forest; and

23 (2) shall be filed with the county clerk of each
 24 of Gallatin County, Park County, Madison County,
 25 Granite County, Broadwater County, Meagher Coun-

1 ty, Flathead County, and Missoula County, Mon-
2 tana.

3 (c) STATUS OF LAND.—All land conveyed to the
4 United States under this Act shall be added to and admin-
5 istered as part of the Gallatin National Forest and
6 Deerlodge National Forest, as appropriate, in accordance
7 with the Act of March 1, 1911 (commonly known as the
8 “Weeks Act”) (36 Stat. 961, chapter 186), and other laws
9 (including regulations) pertaining to the National Forest
10 System.

11 (d) MANAGEMENT.—

12 (1) PUBLIC PROCESS.—Not later than 30 days
13 after the date of completion of the land-for-land ex-
14 change under section 4(f)(1), the Secretary shall ini-
15 tiate a public process to amend the Gallatin Na-
16 tional Forest Plan and the Deerlodge National For-
17 est Plan to integrate the acquired BSL land into the
18 plans.

19 (2) PROCESS TIME.—The amendment process
20 under paragraph (1) shall be completed not later
21 than 360 days after the date on which the amend-
22 ment process is initiated.

23 (3) LIMITATION.—An amended management
24 plan shall not permit surface occupancy on the BSL
25 land for access to reserved or outstanding oil and

1 gas rights or for exploration or development of oil
2 and gas.

3 (4) INTERIM MANAGEMENT.—Pending comple-
4 tion of the forest plan amendment process under
5 paragraph (1), the Secretary shall—

6 (A) manage the acquired BSL land under
7 the same standards, guidelines, and manage-
8 ment directions as adjacent land managed by
9 the Forest Service; and

10 (B) maintain all existing public access to
11 the acquired BSL land.

12 (e) RESTORATION.—

13 (1) IN GENERAL.—After acquiring the BSL
14 land, the Secretary shall implement a restoration
15 program including reforestation and watershed en-
16 hancements to bring the BSL land and surrounding
17 national forest land into compliance with Forest
18 Service standards and guidelines.

19 (2) STATE AND LOCAL CONSERVATION
20 CORPS.—In implementing the restoration program,
21 the Secretary shall, when practicable, use partner-
22 ships with State and local conservation corps, includ-
23 ing the Montana Conservation Corps, under the
24 Public Lands Corps Act of 1993 (16 U.S.C. 1721 et
25 seq.).

1 (f) IMPLEMENTATION.—The Secretary of Agriculture
2 shall ensure that sufficient funds are made available to
3 the Gallatin National Forest to carry out this Act.

4 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

5 There are authorized to be appropriated such sums
6 as are necessary to carry out this Act.

○